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6/18/02

In re application of  
Fabry, Christian, et al.

Serial No. 09/830,527

Filing Date: April 26, 2001

Attorney Docket No. P-1027

For: MICROBIAL ACTIVATION OF  
LAYER SILICATES

Art Unit: 1651

Examiner: Afremova, Vera

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TECH CENTER 1600/2900

Box Amendment  
Assistant Commissioner for Patents  
Washington, D.C. 20231

RESPONSE

Restriction Requirement

This is a response to the Office Action of the United States Patent and Trademark Office dated April 23, 2002.

The Examiner requested that the applicants elect a single invention to which the claims will be restricted. The applicants elect to prosecute the claims of Group I, Claims 1-39 with traverse.

The applicants assert that Claim 40 should be included with Claims 1-39. The same limitations contained in Claim 40 are also contained in Claim 17. Claim 40 is actually a dependent claim depending on Claim 17 and is thus not a separate invention from the invention claimed by Claims 1-39.

### Information Disclosure Statement

The Examiner also refused to consider certain references contained in two Information Disclosure Statements that were filed with the USPTO, stating that those references, or English translations thereof, were not enclosed with the Information Disclosure Statements. My comments concerning those references follow:

JP 5221631 and EP 0398636.

With regard to both of those references, the only documents that were submitted for review to the USPTO were "abstracts" of those references. With regard to JP 5221631, the abstract was submitted as it was the exact document provided by the European Patent Office ("EPO") to the applicants in its International Search Report. Because the EPO only provided an abstract of that document, only the abstract was submitted to the USPTO for review. Further, the EPO acknowledged novelty and inventive step over this document. Accordingly, the applicants request that this abstract be considered by the USPTO.

With regard to EP 0398636, the corresponding U.S. patents are U.S. Patent Nos. 5,008,226 and 5,008,227, copies of which were included with the Information Disclosure Statement as Items 3 and 4. The applications on which each of these U.S. patents are based formed the priority documents for EP 0398636. Thus, all of the

information contained in European patent application 0388036 is included in the corresponding U.S. patents. As such, it is not necessary to include a complete copy of the European patent application. The abstract for that application was included for notice purposes to the United States Patent and Trademark Office and is all that needs to be reviewed by the USPTO.

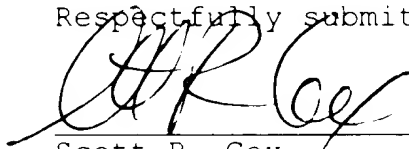
DE 304706 and the two Articles

With regard to DE 304706 and the two articles from the 7/30/01 Information Disclosure Statement, the applicants are reviewing those documents to determine whether they are material to patentability. If materiality is determined, a translation of those documents will be obtained for submission to the United States Patent and Trademark Office.

CONCLUSION

The applicants believe the application is in condition for review by the United States Patent and Trademark Office and request that that review occur.

Respectfully submitted,



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